

## **SUPPLEMENTAL AGREEMENT #1**

CITY OF LINCOLN  
KIRKHAM MICHAEL AND ASSOCIATES, INC.  
PROJECT NO. ENH-55(160)  
CONTROL NO. 12879  
JAMAICA TRAIL NORTH – PHASE 2

**THIS SUPPLEMENTAL AGREEMENT** is between the City of Lincoln ("LPA") and Kirkham Michael and Associates, Inc. ("Consultant"), collectively referred to as the "Parties".

**WHEREAS**, Consultant and LPA entered into an agreement ("Original Agreement") BK1378 providing for Consultant to provide Construction Engineering for LPA's Federal Aid project, and

**WHEREAS**, it is necessary that additional topographic surveying due to underground utility conflict be added under this Supplemental Agreement, and

**WHEREAS**, it is necessary to increase Consultant's compensation by this Supplemental Agreement for the additional work necessary to complete the project.

**WHEREAS**, it is the desire of LPA that the project be constructed under the designation of Project No. ENH-55(160), as evidenced by the Resolution of LPA, attached as EXHIBIT "A" and incorporated herein by this reference, and

**NOW THEREFORE**, in consideration of these facts and mutual promises, the Parties agree as follows:

### **SECTION 1. SCOPE OF SERVICES**

Consultant will perform the additional work as set out in in Exhibit "B" Consultant Work Order 1, attached and incorporated herein by this reference.

### **SECTION 2. NOTICE TO PROCEED AND COMPLETION SCHEDULE**

The State issued Consultant a written Notice-to-Proceed on October 23, 2014. Any work or services performed by Consultant on the project prior to the date specified in the written Notice-to-Proceed is not eligible for reimbursement.

Consultant will complete all work as set out in the Original Agreement, and this Supplemental Agreement.

### **SECTION 3. FEES AND PAYMENTS**

For the work required, **SECTION 7 FEES AND PAYMENTS** of the Original Agreement is hereby amended in accordance with Exhibit "B" so that the fixed-fee-for-profit is increased from \$9,340.30 to \$9,517.88, an increase of \$177.58. Actual costs are increased from \$69,757.92 to \$71,077.50, an increase of \$1,319.58. The total agreement amount is increased from \$79,098.22 to \$80,595.38, an increase of \$1,497.16 which Consultant must not exceed without the prior written approval of LPA.

#### **SECTION 4. ENTIRE AGREEMENT**

The Original Agreement, any and all other previous supplements thereto, and this Supplemental Agreement, constitute the entire agreement ("The Agreement") between the Parties. The Agreement supersedes any and all other previous communications, representations, or other understandings, either oral or written; all terms and conditions of the Original Agreement and all previous supplements thereto, to the extent not superseded, remain in full force and effect, and are incorporated herein as if set forth in their entirety.

#### **SECTION 5. CONSULTANT CERTIFICATION AND REAFFIRMATION**

The undersigned duly authorized representative of Consultant, by signing this Supplemental Agreement, hereby reaffirms, under penalty of law, the truth of the certifications set out in the Original Agreement and all Supplements thereto, including this Supplement. Further, Consultant has a duty to inform LPA of any material changes in the accuracy of all assertions set out in the Original Agreement and all Supplements thereto.

#### **SECTION 6. CERTIFICATION OF LPA**

By signing this Supplemental Agreement, I do hereby certify that, to the best of my knowledge, Consultant or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this agreement to:

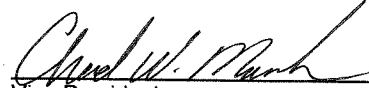
- (a) employ or retain, or agree to employ or retain, any firm or person, or
- (b) pay or agree to pay to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind.

I acknowledge that this certification is to be furnished to the FHWA, upon their request, in connection with this agreement involving participation of Federal-Aid highway funds and is subject to applicable LPA and federal laws, both criminal and civil.

IN WITNESS WHEREOF, the Parties hereby execute this Supplemental Agreement pursuant to lawful authority as of the date signed by each party. Further, the Parties, by signing this Supplemental Agreement, attest and affirm the truth of each and every certification and representation set out herein.

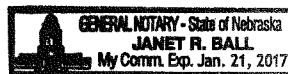
EXECUTED by Consultant this 4<sup>th</sup> day of December, 2014.


KIRKHAM MICHAEL AND ASSOCIATES  
Chad W. Marsh

  
Vice President

STATE OF NEBRASKA     )  
                                  )ss.  
LANCASTER COUNTY     )

SUBSCRIBED AND SWORN to before me this 4 day of December, 2014.



  
Notary Public

EXECUTED by LPA this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

CITY OF LINCOLN  
Chris Beutler

\_\_\_\_\_  
Mayor

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Clerk

STATE OF NEBRASKA  
DEPARTMENT OF ROADS  
Form of Agreement Approved for  
Federal Funding Eligibility:

\_\_\_\_\_  
Date

AGRS-1S

Project No. ENH-55(160)  
Control No. 12879  
Jamaica Trail North – Phase 2

## Consultant Work Order (Local Projects)

Project No.: ENH-55(150) - Jamaica Trail North Ph. 2		Control No.: 12879
Consultant: (Name and Representative) Kirkham, Michael & Associates	Agreement No.: BK 1578	Work Order No.: 1
LPA: (Name and Representative) City of Lincoln	Constr. Change Order No.: (if applicable) NA	
<p>All parties agree the following described work needs to be performed by the consultant as part of the referenced project. All parties concur and hereby give notice to proceed based on the following: justification to modify contract, scope of services, deliverables, schedule, and estimated total fee. All other terms of existing agreements between the parties are still in effect. It is understood by all parties that the work described herein will become part of a future supplement to the agreement indicated above.</p> <p>Justification to modify agreement: (Include scope of services, deliverables, and schedule) Underground utility conflicts at retaining wall have caused additional topographic surveying and construction staking. Staked the retaining wall first in its original location. Stakes were destroyed during excavation to determine the location of the fiber optic line. 2nd time was re-staking in its original location after the excavation to locate the fiber optic line. 3rd time was for the new location of the wall.</p>		
Work Title	Summary of Fee	
Topo Surveying and additional construction staking. Survey Crew Chief - 10 hours @ \$28 = \$280 Survey Crew Member - 9 hours @ \$17 = 153 Mileage - 93 miles @ \$0.55 =	A. Total Direct Labor Cost	= 433.00
	B. Overhead (Factor * x A)	= 835.43
	C. A + B	= 1,268.43
	D. Profit/Fee (Factor ** x C)	= 177.59
	E. Direct Non-Labor Cost	= 51.15
*Overhead Factor: 182.94%	F. Subconsultant Services	=
**Profit/Fee Factor: 14.00%	TOTAL FEE: C + D + E + F = \$1,497.16	
Total Fee Notes:	<input type="checkbox"/> ESTIMATED TOTAL FEE: <input checked="" type="checkbox"/> FINAL TOTAL FEE: 1497.16	

**Work Order Authorization – May be granted by email and attached to this document.**

Consultant:

Chad W. Marsh Chad W. Marsh 10-24-14  
Name Signature Date

LPA:

TERRY GENRICH Terry Genrich 10-24-14  
Name Signature Date

LPD PC (for Preliminary Engineering) and State Rep. (for Construction Engineering):

ERNEST L. MURILLO Ernest L. Murillo 27 Oct 2014  
Name Signature Date

FHWA:

Digitally signed by Omar Qudus  
DN: cn=Omar Qudus, o=NE Division,  
ou=FHWA, email=omar.qudus@dot.gov,  
c=US  
Omar Qudus 2014.10.28 08:24:24 -05'00'  
Name Date Signature

Notice to Proceed  
will be granted by  
email by:  
LPD PC for  
Preliminary  
Engineering &  
CD PC for  
Construction  
Engineering.

Notice to Proceed Date:  
9/23/2014

Distribution: Consultant, LPA – RC, State Rep., FHWA, LPD PC, NDOR Agreements Engineer, Highway Funds Manager, CD PC

DR Form 250, February 2012

## **SUPPLEMENTAL AGREEMENT #2**

CITY OF OMAHA  
KIRKHAM MICHAEL AND ASSOCIATES, INC.  
PROJECT NO. ENH-55(160)  
CONTROL NO. 12879  
JAMAICA TRAIL NORTH -- PHASE 2

**THIS SUPPLEMENTAL AGREEMENT** is between the City of Omaha ("LPA") and Kirkham Michael and Associates, Inc. ("Consultant"), collectively referred to as the "Parties".

**WHEREAS**, Consultant and LPA entered into an agreement ("Original Agreement") BK1378 and Supplemental Agreement #1 providing for Consultant to provide construction engineering for LPA's Federal Aid project, and

**WHEREAS**, it is necessary that time and materials are needed for additional cylinder breaks be added under this Supplemental Agreement, and

**WHEREAS**, it is necessary to increase Consultant's compensation by this Supplemental Agreement for the additional work necessary to complete the project.

**WHEREAS**, it is the desire of LPA that the project be constructed under the designation of Project No. ENH-55(160), as evidenced by the Resolution of LPA, attached as EXHIBIT "A" and incorporated herein by this reference, and

**NOW THEREFORE**, in consideration of these facts and mutual promises, the Parties agree as follows:

### **SECTION 1. SCOPE OF SERVICES**

Consultant will perform the additional work as set out in in Exhibit "B" Consultant Work Order 2, attached and incorporated herein by this reference.

### **SECTION 2. NOTICE TO PROCEED AND COMPLETION SCHEDULE**

The State issued Consultant a written Notice-to-Proceed on November 5, 2014. Any work or services performed by Consultant on the project prior to the date specified in the written Notice-to-Proceed is not eligible for reimbursement.

Consultant will complete all work as set out in the Original Agreement, Supplemental Agreement(s) #1, and this Supplemental Agreement.

### **SECTION 3. FEES AND PAYMENTS**

For the work required, **SECTION 7 FEES AND PAYMENTS** of the Original Agreement, as amended in supplement(s) 1, is hereby further amended in accordance with Exhibit "B" so that the fixed-fee-for-profit is increased from \$9,517.88 to \$9,517.88, an increase of \$0. Actual costs are increased from \$71,077.50 to \$72,082.50, an increase of \$1,005.00. The total agreement amount is increased from \$80,595.38 to \$81,600.38, an increase of \$1,005.00 which Consultant must not exceed without the prior written approval of the State.

#### **SECTION 4. ENTIRE AGREEMENT**

The Original Agreement, any and all other previous supplements thereto, and this Supplemental Agreement, constitute the entire agreement ("The Agreement") between the Parties. The Agreement supersedes any and all other previous communications, representations, or other understandings, either oral or written; all terms and conditions of the Original Agreement and all previous supplements thereto, to the extent not superseded, remain in full force and effect, and are incorporated herein as if set forth in their entirety.

#### **SECTION 5. CONSULTANT CERTIFICATION AND REAFFIRMATION**

The undersigned duly authorized representative of Consultant, by signing this Supplemental Agreement, hereby reaffirms, under penalty of law, the truth of the certifications set out in the Original Agreement and all Supplements thereto, including this Supplement. Further, Consultant has a duty to inform LPA of any material changes in the accuracy of all assertions set out in the Original Agreement and all Supplements thereto.

#### **SECTION 6. CERTIFICATION OF LPA**

By signing this Supplemental Agreement, I do hereby certify that, to the best of my knowledge, Consultant or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this agreement to:

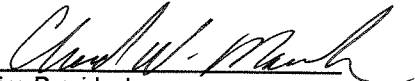
- (a) employ or retain, or agree to employ or retain, any firm or person, or
- (b) pay or agree to pay to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind.

I acknowledge that this certification is to be furnished to the FHWA, upon their request, in connection with this agreement involving participation of Federal-Aid highway funds and is subject to applicable LPA and federal laws, both criminal and civil.

IN WITNESS WHEREOF, the Parties hereby execute this Supplemental Agreement pursuant to lawful authority as of the date signed by each party. Further, the Parties, by signing this Supplemental Agreement, attest and affirm the truth of each and every certification and representation set out herein.

EXECUTED by Consultant this 4<sup>th</sup> day of December, 2014.


KIRKHAM MICHAEL AND ASSOCIATES  
Chad W. Marsh

  
Vice President

STATE OF NEBRASKA     )  
                                  )ss.  
LANCASTER COUNTY     )

SUBSCRIBED AND SWORN to before me this 4 day of December, 2014.



  
Notary Public

EXECUTED by LPA this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

CITY OF LINCOLN  
Chris Beutler

\_\_\_\_\_  
Mayor

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Clerk

STATE OF NEBRASKA  
DEPARTMENT OF ROADS  
Form of Agreement Approved for  
Federal Funding Eligibility:

\_\_\_\_\_  
Date

AGRS-1S

Project No. ENH-55(160)  
Control No. 12879  
Jamaica Trail North – Phase 2

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AGREEMENT # BK1378 Sup # 2

## Consultant Work Order (Local Projects)

Project No.: ENH-55(160) - Jamaica Trail North Ph. 2		Control No.: 12879																											
Consultant: (Name and Representative) Kirkham, Michael & Associates	Agreement No.: BK 1378	Work Order No.: 2																											
LPA: (Name and Representative) City of Lincoln	Contract Change Order No.: (If applicable) NA																												
<p>All parties agree the following described work needs to be performed by the consultant as part of the referenced project. All parties concur and hereby give notice to proceed based on the following: justification to modify contract, scope of services, deliverables, schedule, and estimated total fee. All other terms of existing agreements between the parties are still in effect. It is understood by all parties that the work described herein will become part of a future supplement to the agreement indicated above.</p> <p>Justification to modify agreement: (Include scope of services, deliverables, and schedule) Contractor construction methods have caused an overrun on the concrete cylinder breaks being completed by Terracon. Cylinder mold cost to KM.</p>																													
Work Title		Summary of Fee																											
Subconsultant fee for additional 10 sets of cylinder breaks. 40 cylinder breaks @ \$18/each = \$720.00 PM - 1 hour @ \$105/hr. = \$105 Tech - 1 hour @ \$60/hr. = \$60 Extra cylinder molds, 40 @ \$3 = \$120		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>A. Total Direct Labor Cost</td><td>=</td><td>0.00</td></tr> <tr><td>B. Overhead (Factor * x A)</td><td>=</td><td>0.00</td></tr> <tr><td>C. A + B</td><td>=</td><td>0.00</td></tr> <tr><td>D. Profit/Fee (Factor * x C)</td><td>=</td><td>0.00</td></tr> <tr><td>E. Direct Non-Labor Cost</td><td>=</td><td>120.00</td></tr> <tr><td>F. Subconsultant Services</td><td>=</td><td>885.00</td></tr> <tr><td><b>TOTAL FEE: C + D + E + F</b></td><td><b>=</b></td><td><b>\$1,005.00</b></td></tr> <tr><td colspan="3"><input type="checkbox"/> ESTIMATED TOTAL FEE:</td></tr> <tr><td colspan="3"><input checked="" type="checkbox"/> FINAL TOTAL FEE: <span style="float: right;">\$1,005.00</span></td></tr> </table>	A. Total Direct Labor Cost	=	0.00	B. Overhead (Factor * x A)	=	0.00	C. A + B	=	0.00	D. Profit/Fee (Factor * x C)	=	0.00	E. Direct Non-Labor Cost	=	120.00	F. Subconsultant Services	=	885.00	<b>TOTAL FEE: C + D + E + F</b>	<b>=</b>	<b>\$1,005.00</b>	<input type="checkbox"/> ESTIMATED TOTAL FEE:			<input checked="" type="checkbox"/> FINAL TOTAL FEE: <span style="float: right;">\$1,005.00</span>		
A. Total Direct Labor Cost	=	0.00																											
B. Overhead (Factor * x A)	=	0.00																											
C. A + B	=	0.00																											
D. Profit/Fee (Factor * x C)	=	0.00																											
E. Direct Non-Labor Cost	=	120.00																											
F. Subconsultant Services	=	885.00																											
<b>TOTAL FEE: C + D + E + F</b>	<b>=</b>	<b>\$1,005.00</b>																											
<input type="checkbox"/> ESTIMATED TOTAL FEE:																													
<input checked="" type="checkbox"/> FINAL TOTAL FEE: <span style="float: right;">\$1,005.00</span>																													
*Overhead Factor: 182.94% **Profit/Fee Factor: 14.00%																													
Total Fee Notes:																													

**Work Order Authorization -- May be granted by email and attached to this document.**

<b>Consultant:</b>		
<u>Charles M. Kirkham</u> Name	<u>Charles M. Kirkham</u> Signature	<u>11-3-2014</u> Date
<b>LPA:</b>		
<u>TERESA GERRARD</u> Name	<u>Teresa Gerrard</u> Signature	<u>11-3-2014</u> Date
<b>LPD PC (for Preliminary Engineering) and State Rep. (for Construction Engineering):</b>		
<u>ERNEST L. MURILLO</u> Name	<u>Ernest L. Murillo</u> Signature	<u>05 Nov 2014</u> Date
<b>FHWA:</b>		
Digitally signed by Omar Qudus DN: cn=Omar Qudus, o=NE Division, ou=FHWA, email=omar.qudus@dot.gov, c=US Date: 2014.11.05 16:12:36 -0600		
<u>Omar Qudus</u> Name	<u>Omar Qudus</u> Signature	<u>11/5/2014</u> Date

Notice to Proceed will be granted by email by:  
LPD PC for Preliminary Engineering & CD PC for Construction Engineering.

Notice to Proceed Date:  
11/5/2014

Distribution: Consultant, LPA - RC, State Rep., FHWA, LPD PC, NDOR Agreement Engineer, Highway Funds Manager, CD PC

DR Form 250, February 2012

EXHIBIT "B"